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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,322	07/28/2003	Albert Andrew Murrer III	034827-3101	6587

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EXAMINER
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GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,322	<b>Applicant(s)</b> MURRER, ALBERT ANDREW	
	<b>Examiner</b> Harry A. Grosso	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/12/04</u>   | 6) <input type="checkbox"/> Other: _____                                    |

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5 and 20-24, drawn to a method of using a container, classified in class 29, subclass 428.
  - II. Claims 6-19, drawn to a soft sided container, classified in class 220, subclass 9.4.
2. Inventions of Group II and Group I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product container can be used for storing food products at a given temperature.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. During a telephone conversation with Mr. Barry Wilson on November 3, 2005 a provisional election was made without traverse to prosecute the invention of Group II, claims 6-19. Affirmation of this election must be made by applicant in replying to this

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Office action. Claims 1-5 and 20-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 6, 11, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Zeddies (6,336,342).

7. Regarding claim 6, Zeddies discloses a container with a soft-sided collapsible outer shell and a collapsible inner frame with rigid walls. (Figures 1, 4, 6, 7, column 4, lines 1-29, column 5 lines 13-24).

8. Regarding claims 11 and 12, Zeddies discloses a plurality of walls integrally formed with a bottom and an open top (Figures 1 and 4) and a lid selectively secured to a vertical side wall (40, column 4, lines 44-52).

9. Regarding claim 14, Zeddies discloses the walls, including the bottom wall, are structurally reinforced (31, Figure 3, column 4, lines 26-28).

10. Claims 6-8 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Tattam (6,609,628).

11. Regarding claim 6, Tattam discloses a container with a soft-sided collapsible outer shell and a collapsible inner frame with rigid walls. (2, 3, Figures 2A-2E and 4A-4C. column 2, lines 9-24, column 4, lines 4-14, column 5, lines 7-8).

12. Regarding claims 7 and 8, Tattam discloses the container may be used for transportation of organs (column 1, lines 9-32).

13. Regarding claim 17, Tattam discloses the inner frame has rigid longitudinal walls and side walls (all 4 walls being the same dimension) that are collapsible to allow a reduction in the distance between the longitudinal walls (Figures 2A-E and 4A-C, column 4, lines 8-10).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 6, 11-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil (6,582,124) in view of Zeddies

16. Regarding claim 6, Mogil discloses a container with a collapsible soft sided outer shell and a frame (liner) (Figures 1, 3, 7-9, column 4, lines 19-25). Mogil does not teach the use of a rigid inner frame. Zeddies discloses a collapsible rigid inner frame used with a collapsible outer shell to provide support to the outer shell. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have

incorporated the use of a collapsible rigid inner frame as disclosed by Zeddies in the container disclosed by Mogil to provide support for the soft sided collapsible outer shell.

17. Regarding claims 11-13, Mogil discloses a plurality of vertical walls integrally formed with a bottom (column 4, lines 29-38) and an open top with a lid (46) selectively secured to the vertical walls with a zipper (48, column 4, lines 38-41).

18. Regarding claim 15, Mogil discloses an outer fabric layer (88, Figure 10, column 5, lines 40-41) and a foam insulation layer (90).

19. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil and Zeddies as applied to claim 6 in view of Kalal (2003/0106895, June 12, 2003).

Mogil and Zeddies disclose the container of claim 6 except for the vent holes. Kalal discloses a collapsible soft sided container with a liner having vent holes in the outer shell to allow venting of air when the container is collapsed (42, Figure 2, paragraph 0022). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of vent holes in the outer shell as disclosed by Kalal in the container disclosed in claim 6 to allow venting of air when the container is collapsed.

20. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil and Zeddies as applied to claim 6 in view of Boyd-Moss et al (6,631,801). Mogil and Zeddies disclose the container of claim 6 but do not teach that the outer shell satisfies IATA 602 requirements. Boyd-Moss et al discloses that it is known to construct a transport package that meets IATA 602 requirements to allow the package to be used for transport of hazardous goods (column 1, lines 9-15 and column 8, lines 1-7). It would

have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use materials and construction to meet IATA 602 as disclosed by Boyd—Moss et al in the container disclosed in claim 6 to allow the container to be used for transport of hazardous materials.

21. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil and Zeddies as applied to claim 15 in view of Reichert (4,865,899). Mogil and Zeddies disclose the container of claim 15 but do not teach the outer fabric includes polyester. Reichert discloses a container for the transport of hazardous materials constructed from fabric comprising polyester that is selected for a high degree of imperviousness to hazardous materials. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of polyester in the fabric of the container as disclosed by Reichert in the container disclosed in claim 15 to provide a high degree of imperviousness to hazardous materials.

22. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogil and Zeddies as applied to claim 6 in view of Travis (4,585,159).

23. Regarding claim 17, Mogil and Zeddies disclose the container of claim 6 with an inner frame having opposing rigid longitudinal walls and opposing collapsible side walls but do not teach that the side walls link the ends of the longitudinal walls and allow a reduction in a distance between the longitudinal walls when collapsed. Travis discloses a frame structure capable being used as the inner frame of the invention made of rigid material (Figures 1 and 2, column 2, lines 21-23) with the side walls linking the ends of the longitudinal walls and the walls being collapsible allowing a reduction in a distance

between the longitudinal walls (column 2, lines 14 to 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the frame structure as disclosed by Travis in the container disclosed by claim 6 to provide an inner frame that would be less bulky and fold flat with a thinner profile for handling and storage.

24. Regarding claim 18, Travis further discloses the bottom is pivotably engaged to the opposing rigid walls and pivots between open and collapsed positions (column 2, lines 29-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the bottom panel pivotably attached to the rigid wall as disclosed by Travis to provide for the movement of the rigid bottom from an open position to the collapsed position to allow collapse of the frame.

25. Regarding claim 19, Mogil discloses a fastener that secures the outer shell in the collapsed position (Figures 7-9, column 5, lines 3-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a fastener as disclosed by Mogil on the collapsed inner frame as well, to keep the frame secured in the collapsed position for ease of handling.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nathan Newhouse  
Supervisory Patent Examiner  
Art Unit 3727

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